

Comments by **Simon Beccle, Family law specialist and partner at Payne Hicks Beach**, first published in The Times on 25 July 2018 and reproduced with kind permission <https://www.thetimes.co.uk/article/judges-refuse-to-grant-wife-of-40-years-a-divorce-despite-unreasonable-behaviour-claim-5nkkmdstt>

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## Judges refuse to grant wife of 40 years a divorce despite ‘unreasonable behaviour’ claim

**Frances Gibb, Legal Editor**

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The Supreme Court ruling leaves Tini Owens unable to divorce her husband, Hugh, until 2020 DOMINIC LIPINSKI/PA

A woman who says she is “locked in a loveless marriage” with her husband of 40 years must remain married, the UK’s highest court ruled today as it called on MPs to consider overhauling the divorce laws.

Five Supreme Court justices ruled that Tini Owens, 68, cannot have a divorce from her husband Hugh Owens, who is 80. She will therefore not be free of her marriage until 2020, when five years will have elapsed since the petition and the marriage will end on the grounds of separation.

In a ruling that deals a blow to campaigners’ hopes for reforming the divorce laws, the five justices said that it was not for them to intervene in the decision made by earlier courts.

However Lady Hale and Lord Wilson expressed “unease” and called on parliament to consider changing the law because at present it denies Mrs Owens a divorce.

The 50-year old divorce laws in England and Wales require spouses to show that the marriage has broken down irretrievably through one of five grounds. These include that the behaviour of one is such that the other cannot be reasonably expected to live with him or her — this was argued unsuccessfully by Mrs Owens, after a judge ruled that her examples were the normal “altercations” to be expected in a marriage.

Simon Beccle, Mrs Owens’s solicitor, from the Payne Hicks Beach partnership, said that Mrs Owens was “devastated”.

“She has been separated from Mr Owens for over three years, but has been locked into a loveless and unhappy marriage for many more years previously,” he said after the ruling.

“Sadly, this situation will now continue given the Supreme Court’s decision to dismiss her appeal despite the court’s finding that the marriage has broken down irretrievably, that Mrs Owens could not continue to live with Mr Owens and that, in so far as he believed otherwise, Mr Owens was deluding himself.

“Naturally, Mrs Owens is devastated by this decision, which means that she cannot move forward with her life and obtain her independence from Mr Owens.”

Lord Wilson said the justices had dismissed the appeal “with reluctance”, adding: “The question for parliament, and for all of us who comprise its electorate, is whether, when judged by its effect in this case, the law which still governs entitled to divorce remains satisfactory.”

Lady Hale, the court’s president, had wanted to send the case back to the original judge for a fuller hearing, but accepted that the parties did not want a re-run.

Describing the case as “troubling” and with “several misgivings, she said: “I am therefore reluctantly persuaded that this appeal should be dismissed.”

Mrs Owens argues that her marriage is loveless and has broken down. She argues that he has behaved unreasonably and that she should not reasonably be expected to stay married, citing 27 examples of his unreasonable behaviour.

However Mr Owens, who built his wealth as a mushroom farmer, refuses to agree to a divorce and denies Mrs Owens’ allegations about his behaviour. He says if their marriage has irretrievably broken down it is because she had an affair, or because she is “bored”.

The court was told that the couple, neither of whom were in court to hear the decision, married in 1978 and lived in Broadway, Worcestershire. Mrs Owens petitioned for divorce in 2015 after moving out.

Mr Owens still lives in the matrimonial home, a “substantial manor” in Gloucestershire, and Mrs Owens lives next door in a property that they also own.

The Supreme Court justices analysed rival legal arguments, which turned on concepts of “unreasonable” behaviour and “fault”, at a hearing in London in May, delivering their ruling today.

Lord Wilson indicated that Mrs Owens would be able to divorce in 2020, when the couple have been separated for five years.

Mrs Owens had already lost two rounds of the battle: in 2016 she failed to persuade a Family Court judge that she should be granted a divorce.

Last year three appeal judges ruled against her after a Court of Appeal hearing in London. They said that Mrs Owens had failed to establish that her marriage had, legally, irretrievably broken down and dismissed her challenge to a ruling by Judge Robin Tolson.

Philip Marshall, QC, who led Mrs Owens's legal team, told the Supreme Court justices that a "modest shift" of focus in interpretation of legislation was required. However, Nigel Dyer, QC, who leads Mr Owens's legal team, disagreed and raised concern about the introduction of divorce on "demand".